

Electronic Acknowledgement Receipt**COPY**

EFS ID:	5153059
Application Number:	10776682
International Application Number:	
Confirmation Number:	3785
Title of Invention:	Devices and methods for heart valve repair
First Named Inventor/Applicant Name:	Rodolfo A. Morales
Customer Number:	25226
Filer:	Mika Mayer/Patricia Ellison
Filer Authorized By:	Mika Mayer
Attorney Docket Number:	578492000510
Receipt Date:	14-APR-2009
Filing Date:	10-FEB-2004
Time Stamp:	17:55:43
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$405
RAM confirmation Number	3945
Deposit Account	031952
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for Continued Examination (RCE)	2000510RCE.pdf	62648 b3e6f0e0d66e2de0a885562d9918b60709b0d8	no	1
Warnings:					
This is not a USPTO supplied RCE SB30 form.					
Information:					
2	Transmittal Letter	2000510SIDS.pdf	103392 ef1317b021d948d3a2cfff06a584d29692a875913	no	3
Warnings:					
Information:					
3	Information Disclosure Statement (IDS) Filed (SB/08)	2000501SB08.pdf	75588 3608fdd225fa920ef0f3242800db0d0893dd0ee	no	1
Warnings:					
Information:					
This is not an USPTO supplied IDS fillable form					
4	NPL Documents	08_NonFinal_OA_dtd_March_31_2009_501.pdf	212591 2d3c1104ca555f6bd7f94db5621dce14305d29e7	no	6
Warnings:					
Information:					
5	Fee Worksheet (PTO-06)	fee-info.pdf	29832 e5ebe25e0716ad9a805ca73939547eb651b251f9	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			484051		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

COPY

PTO/SB/30 (03-09)

Approved for use through 04/30/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

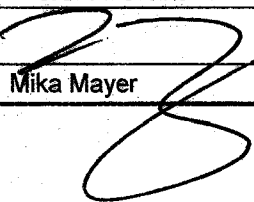
Request for Continued Examination (RCE) Transmittal Address to: Mail Stop RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	10/776,682
	Filing Date	February 10, 2004
	First Named Inventor	Rodolfo A. MORALES
	Art Unit	3773
	Examiner Name	M. Ryckman
	Attorney Docket Number	578492000510

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
- a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☒ Other Amendment filed on March 27, 2009
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- iii. ☒ Information Disclosure Statement (IDS)
(Supplemental (3 pages))
- ii. ☐ Affidavit(s)/Declaration(s)
- iv. ☒ Other PTO/SB/08A/B (1 page), one (1) reference
2. **Miscellaneous**
- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(f) required)
- b. ☐ Other _____
3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- a. ☒ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any Overpayments, to Deposit Account No. 03-1952.
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Signature		Date	April 14, 2009
Name (Print/Type)	Mika Mayer	Registration No.	47,777

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Rodolfo A. MORALES et al.

Serial No.: 10/776,682

Filing Date: February 10, 2004

For: DEVICES AND METHODS FOR
HEART VALVE REPAIR

Examiner: M. Ryckman

Group Art Unit: 3773

**SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

MS RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

Pursuant to 37 C.F.R. §1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO/SB/08a/b. A copy of the non-patent literature is submitted herewith. The Examiner is requested to make these documents of record.

This Supplemental Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☒ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. ~~However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.~~

- ☐ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☐ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
- ☐ A fee is required. A check in the amount of ___ is enclosed.
- ☐ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of ___ is enclosed.
- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

Applicants would appreciate the Examiner initialing and returning the Form PTO/SB/08a/b, indicating that the information has been considered and made of record herein.

The information contained in this Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17 (p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petition and/or other

Application No. 10/776,682

Patent
Docket No. 578492000510

fees due in connection with the filing of this document to **Deposit Account No. 03-1952**
referencing 578492000510.

Dated: April 14, 2009

Respectfully submitted,

By: 

Mika Mayer

Registration No.: 47,777
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
(650) 813-4298

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete if Known	
				Application Number	10/776,682
				Filing Date	February 10, 2004
				First Named Inventor	Rodolfo A. MORALES
				Art Unit	3773
				Examiner Name	M. Ryckman
Sheet	1	of	1	Attorney Docket Number	578492000510

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1.	US-2008/0228032-A1	09-18-2008	Starksen et al.	
	2.	US-2008/0234701-A1	09-25-2008	MORALES et al.	
	3.	US-2008/0234702-A1	09-25-2008	Morales et al.	
	4.	US-2008/0234704-A1	09-25-2008	Starksen et al.	
	5.	US-2008/0243150-A1	10-02-2008	Starksen et al.	
	6.	US-5,415,666-A	05-16-1995	Gourlay et al.	
	7.	US-5,695,505-A	12-09-1997	Yoon	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)	MM-DD-YYYY			

Examiner Signature		Date Considered	
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*EXAMINER: Initial if information considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
	8.	Non-Final Office Action mailed on March 31, 2009, for U.S. Patent Application No. 11/237,461, filed on September 27, 2005, 6 pages.	

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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COPY

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/237,461	09/27/2005	Rodolfo A. Morales	578492000501	8635
25226 7590 03/31/2009 MORRISON & FOERSTER LLP 755 PAGE MILL RD PALO ALTO, CA 94304-1018			EXAMINER EREZO, DARWIN P	
			ART UNIT 3773	PAPER NUMBER
			MAIL DATE 03/31/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 11/237,461	Applicant(s) MORALES ET AL.	
	Examiner Darwin P. Erezzo	Art Unit 3773	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 79-100 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 79-100 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :12/29/05, 3/21/06, 9/15/06, 12/7/06, 1/24/07, 2/7/07, 3/21/07, 5/14/07, 11/01/07 and 10/16/08 .

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement(s) (IDS) submitted on 12/29/05, 3/21/06, 9/15/06, 12/7/06, 1/24/07, 2/7/07, 3/21/07, 5/14/07, 11/01/07 and 10/16/08 have been received and made of record. Note the acknowledged form PTO-1449 enclosed herewith.

Applicant should note that the large number of references in the attached IDS have been considered by the examiner in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. **See MPEP 609.05(b)**. Applicant is requested to point out any particular references in the IDS which they believe may be of particular relevance to the instant claimed invention in response to this office action.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Art Unit: 3773

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 79-100 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-36 of U.S. Patent No. 6,986,775. For double patenting to exist between the rejected claims and the patented claims, it must be determined that the rejected claims are not patentably distinct from the patented claims. In order to make this determination, it first must be determined whether there are any differences between the rejected claims and the recited patented claims and, if so, whether those differences render the claims patentably distinct.

The independent claims 79, 95 and 99 recite the steps of attaching a plurality of clips, wherein the clips are attached to a tether; shortening the length of the tether and securing the end of the tether to the last clip.

It is clear that all the elements of the claims are to be found in claims 1, 29, 30 and 32 of the patent. The difference between the claims of the application and the claims of the patent lies in the fact that the patent claims include additional elements and is thus much more specific. Thus the invention of the claims of the patent are in effect a "species" of the "generic" invention of the claims of the application. It has been held that the generic invention is "anticipated" by the "species". See *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993). Since the claims of the application is anticipated by the claims of the patent, they are not patentably distinct.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darwin P. Erezzo whose telephone number is (571)272-4695. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darwin P. Erezzo/
Primary Examiner, Art Unit 3773

Electronic Patent Application Fee Transmittal

Application Number:	10776682			
Filing Date:	10-Feb-2004			
Title of Invention:	Devices and methods for heart valve repair			
First Named Inventor/Applicant Name:	Rodolfo A. Morales			
Filer:	Mika Mayer/Patricia Ellison			
Attorney Docket Number:	578492000510			
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Request for continued examination	2801	1	405	405
Total in USD (\$)				405